PLYMOUTH BOARD OF SELECTMEN

TUESDAY, OCTOBER 17, 2017

ALBA THOMPSON ROOM, TOWN HALL, 11 LINCOLN STREET, PLYMOUTH, MA – 7:00 PM

7:00PM - CALL TO ORDER

Ken Tavares, Chairman of the Board, called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Present: Kenneth A. Tavares, Chairman
Anthony F. Provenzano Jr, Vice Chairman
John Mahoney
Shelagh Joyce
Betty Cavacco *(Absent)*

Melissa Arrighi, Town Manager
Marlene McCollem, Assistant Town Manager

7:00PM – PUBLIC HEARING – Stein Building

Chairman Tavares opened the Hearing at 7:00pm to discuss the Stein Building located at 291 Court Street in North Plymouth. Greg Corbo came up first and explained the hearing process saying that the Board of Selectmen will hear from Town Staff, the public, and anyone representing the property owner, before making a determination.

Melissa Arrighi, Town Manager, went over the report presented by Ed Bradley, Fire Chief for the Town of Plymouth. She said his report indicated that in 2008 after receiving several neighborhood complaints more comprehensive inspections were done and over the years repairs and violations became more numerous. To date this property is a fire hazard and poses danger to neighbors due to the proximity of the building to surrounding homes.

Paul McAuliffe, Director of Inspectional Services, came up next saying that the building has continued to deteriorate to the point where we feel the upcoming winter weather may cause the building to collapse. He said the electricity has been shut off since 2013 and there are no fire protection systems in the building.

Chairman Tavares asked if anyone from the public wished to speak, no one did. He then pointed out that there have been three meeting regarding this and movement has been made towards a solution. He said we have a dangerous situation that needs to be addressed.

On a motion by Anthony Provenzano Jr and seconded by Shelagh Joyce, the Board found that based on the facts and evidence presented at this hearing including but not limited to the findings of the Director of Inspectional Services in a letter dated September 6, 2017, the building located at 291 Court Street is a nuisance and danger to the surrounding neighborhood. *Voted 4/0*

On a motion by Anthony Provenzano Jr and seconded by John Mahoney, the Board moved that the building located at 291 Court Street was a nuisance and a danger and ordered the owner to remove the building and level the site to grade by December 31, 2017. *Voted 4/0*

7:15PM – PUBLIC HEARING – Rye Tavern Noise Complaint

Chairman Tavares opened the hearing at 7:15pm to discuss the noise complaints received from neighbors of the Rye Tavern.

Ms. Alpern came up and thanked the Board for giving them the opportunity to be heard. She then went over the history of the restaurant before it was the Rye Tavern and said they were assured that the Tavern would have to adhere to the rules of any restaurant located within the Pinehills. Ms. Alpern then talked briefly about the history of noise complaints and how they have been ignored.

Ed Murphy came up next saying he was a resident of Hitching Post which is affected greatly by the noise that comes from the Rye Tavern. He then talked about the Town's noise bylaws and how they have been ignored. He went on to say that for the past three to four years the music blasts from 5:00pm to 9:00pm Thursday through Sunday. It's become and annoyance to some of the residents at Pinehills. He said he wants the Rye Tavern to be successful but in a way that does not impede on his rights. Mr. Murphy then talked about a couple of time that they had to call the police and they confirmed that they heard the resident's windows rattle and how their home seemed to physically rumble. He then went on to say that initially the Rye Tavern would comply with their complaints but now they go ignored. They even told us to relax, come over and have a beer.

Dennis Duckett came up next saying that he lives directly behind the Rye Tavern. He then went over a letter that was sent to Lisa Johnson in the Town Manager's Office and that the pictures included were very telling of the situation. Since then, the Rye Tavern has hired a parking attendant which has helped. Mr. Duckett added that not only is it the music but there is also an issue with the trash dumpster pickup times. He said ABC Disposal comes between 4:00am and 4:30am which is very disruptive. He did say that the driver has been very courteous but nothing has been done up to this point. Mr. Duckett then presented a list of requests by the residents for solutions to these nuisances as follows:

- No exterior music or announcements
- Parking must be in compliance
- No special permits approved
- No dumpster removal before 9:00am

He finished by asking the Board to please give the residents of Pinehills some consideration as this has been going on for six years which has been too long.

Chairman Tavares then invited the Rye Tavern to come up and speak.

Attorney Bob Betters came up and went over some of the factual aspects and permits that are in place. He said this is in a rural residential district with an overlay which allows a business like this to be run in the Pinehills, adding that this was always the intended plan for this property. Mr. Betters then said that their complaints are not being overlooked; we are just stating the facts. He said the Rye Tavern is owned by local people and has been successful and has a great reputation for their food and service. There are permits that allow them to play amplified music outdoors. The permit was issued in 2013 and allows amplified music between 1:00pm and 9:00pm and only one or two musicians are allowed which is exactly how they have been operating. The music is only played 3 days a week seasonally with seven or eight weddings per year. There were parking issues that were addressed by the Rye Tavern and Pinehills and have been resolved by both parties. Lastly, Mr. Betters wanted to let the

Board know that they have been in touch with ABC Disposal and requested that their truck not come before 7:00am on any given day.

Nathan Withington, one of the owners of Rye Tavern, came up and said he is an absentee owner and not always privy to the operations. He said that he wants to address all of these issues. Mr. Withington went on to say that the parking issues have been resolved since we put in a new parking lot in this summer and added an attendant. He added that he would also be upset by the early trash trucks. Mr. Withington then asked Jessica Mulholland, Rye Tavern General Manager, to come up and speak on these issues.

Jess Mulholland began by saying she spoke to ABC Disposal and they have been instructed not to come before 7:00am to empty the dumpsters. She then talked about the noise saying that there have only been four weddings in the last year, and added that four weddings out of 365 days does not make us a wedding destination. She said they begin the outside music in May and it ends in October.

Nathan Withington said they have never had a patron at the Rye Tavern complain about the noise so she can't see how offensive it would be to neighbors. He said he would be the first to stop the music if it were too loud and that he's concerned about the acoustics of the music going up to Hitching Post. He also added that there have been 45 police reports, and only the 3 that were read had any findings. Mr. Withington suggested maybe it's the pitch of the land that enhances the noise towards their direction. Mr. Withington then read some comments by patrons regarding the music, and finished by saying he would like to work with these residents and come to a common ground.

Chairman Tavares then asked for any public comment.

Paul Churchill came up first and said he was a patron of the Rye Tavern and said he can attest to the commitment of the owners and staff to provide great service. He said that calling the police without infractions is not a black eye on the Rye Tavern, but rather on the callers. Any action taken by this Board would be a threat to all businesses in Plymouth.

Selectman Joyce said that she lives in the Pinehills but not on Hitching Post. She said distance means nothing because she can hear the bands and announcements from the Plymouth South High School Fields. She said she read Mr. Withington's letter and was bothered by it saying she felt it was sarcastic. She then addressed Attorney Betters saying that weddings are infrequent, but even if one that is too loud it is not acceptable. Different people have different tolerances for noise. Selectman Joyce then asked Jess Mulholland if she spoke to ABC Disposal and if she did, how long ago, to which she replied that she spoke to them a year ago and again this past August. Selectman Joyce then said she agrees that she wants the Rye Tavern to be successful, but that these issues need to be addressed.

Keven Joyce came up next saying he wasn't planning on commenting but nothing has been addressed with the Pinehills management. He said they usually do a good job with situations like this and was surprised they haven't intervened yet. He finished by saying the Rye Tavern is a great business that does a great job, but didn't want to see residents disturbed.

Bill Caldwell came up saying they live a half mile away and can hear the music but it doesn't bother them. However, he's been on Hitching Post when the music is playing and it is very loud. He finished by saying there are also parking problems and hopes this can all be resolved.

John Judge, Manager of Pinehills, spoke next saying he was very disturbed that the residents had to come here tonight regarding this problem. He said it was never the intent for the Rye Tavern to be anything but an asset to the Pinehills. He said that they have already contacted Rye Tavern about the dumpster pick up times and hopes that has been resolved. Selectman Joyce and Bill Caldwell both sent pictures of the parking issues and we called a meeting that day and told them this couldn't happen. We came up with a parking solution which was adding the parking attendant who keeps patrons from parking on the street. Mr. Judge said as far as the noise, Pinehills did meet with the Rye Tavern early on. He said everyone has a different tolerance to noise and this restaurant was never intended to make too much noise. He finished by saying Nathan Withington needs to sit with these residents and come up with a solution to these issues and find some common ground.

Henrietta Constantino came up saying she was a patron of the Rye Tavern and that she is disturbed by the noise level on Hitching Post. She said there needs to be a common sense approach which would be monitoring the decibels and turning down the music a little bit.

Beverly Murphy came up saying she was a Hitching Post resident. She said they love John Judge because he makes the Pinehills a wonderful community. Ms. Murphy added that they also love the Rye Tavern and that we are all good people and should be pulling together to work on a solution that will make everyone happy.

Bob Betters came back up and said in terms of his law practice, it's his job to see how we can resolve these issues that will satisfy everyone. He said there is one outside function left but other than that there no other outside music this season. This will give us an opportunity to resolve this before next season. He asked the Board to continue this hearing and come back after we have a chance to meet and discuss a resolution.

Chairman Tavares said that this is not the first complaint, and he's happy that there seems to be some willingness to work towards a solution from both sides. We have found over the years that lowering the amplification can help with the noise and not affect the business. Chairman Tavares then said that it's a good idea to continue tis hearing and wanted to make note to business that hold permits not to feel comfortable because it can always be changed.

Dennis Duckett came back up and said that people should read Trip Advisor, because he knows for a fact that patrons have posted there complaining about the loud music. He went on to say that as far as a compromise goes, this has been going on for six years; this did not just come out of the blue. He said that 7:00am for the dumpster pick up is unreasonable as there are people in his neighborhood with health issues.

Ed Murphy came back up saying that when he read the police reports they were from his house. He said the vibration is indescribable. He also said he has concerns about any compromise as most musicians have their own amplification systems so that can change between performers. Mr. Murphy finished by saying if we can't work this out we will be back and will continue to call the police to maintain records.

Nathan Withington said he'd like to put a nail in this coffin. He said the noise seems to be the main issue and we can work through this so everyone is happy.

Chairman Tavares closed the hearing and said if the Board is in consensus to discuss this again in January then Chris Badot and I will chose a date and schedule it, to which the Board agreed.

9:11PM – PUBLIC COMMENT

Henrietta Constantino came up with concerns about the fate of the 1500 acres and the decommissioning of the power plant. She said we are all frustrated that Plymouth and Massachusetts have very little power over these details. Ms. Constantino said she pleads with the Board of Selectmen to write a letter to Mary Sutter urging Massachusetts to incorporate the power plant into existing standards and regulations. She also wanted to share that there is a movie showing at the Spire on November 19, 2017 called Power Struggle, which is about the closing of the power plant in Vermont.

9:20PM – TOWN MANAGER'S REPORT

Recognition

Melissa Arrighi, Town Manager, began her report by saying the Plymouth Town Clerk, Laurence Pizer, has earned the designation of Master Municipal Clerk by the International Institute of Municipal Clerks (IIMC). She said the IIMC only designates those Municipal Clerks that complete demanding education requirements and who have a record of significant contributions to their local government, community, and state. She said we are very proud.

MEPA

Ms. Arrighi informed everyone that the Massachusetts Environmental Policy Act Office is hosting a session in Plymouth to review the proposed Atlantic Link Transmission Cable Project. She said if anyone is interested please meet at the Moose Lodge by 4:00pm on October 18th for transportation to the site visit and then return to the Moose Lodge for a 6:00pm consultation session which is open to the public.

Pleasant Street Gas Project

Melissa Arrighi said that as a follow up to public comment last week, she wanted to update everyone and said that the Gas Company will begin the job on Pleasant Street on Monday, October 23rd and will complete the work in about three weeks.

WHB Update from Highway Manager

Ms. Arrighi said that the White Horse Beach Parking Committee, chaired by Betty Cavacco, had inquired about some painting and wanted to give an update. She said the painting would cost about $1,500 including paint and DPW labor. She said we would also need the approval of the PTTF before painting the lines. The Committee also asked about removing some illegal signs and there was only one found, and it has been removed.

Stafford Street Work

Melissa Arrighi said CN Corp will mobilize the week of October 23rd in order to start working on the new 16 inch water main project. She said it will begin in front of 95 South Street and continue to Stafford Street and should take about a month to complete. She said every effort will be made to lessen any traffic issues during this work.

Selectman Mahoney mentioned that Ms. Arrighi skipped item number 5 of her report but wanted to talk about it. He began by saying the litigation between the County and the Town of Plymouth has been quiet for about a year or so. He said the County Commissioners have had a fair amount of Executive Sessions regarding to the litigation and lawsuit on the South Street clean up. He asked Ms. Arrighi for an update.

Melissa Arrighi said that she was informed this week that their attorney issued a notice for David Gould to give a deposition. She said she would be there for any and all depositions. This is rare to have sister governments in litigation and this is very important to us and that she would keep them updated.

9:28PM - LICENSES AND ADMINISTRATIVE NOTES

LICENSES

On a motion by John Mahoney and seconded by Shelagh Joyce, the Board approved a One Day Wine and Malt License for **EC Event Management** for a Concert being held on November 4, 2017 from 7:00p to 11:00pm at Studio G. *Voted 4/0*

On a motion by John Mahoney and seconded by Shelagh Joyce, the Board approved a One Day Wine and Malt License for **EC Event Management** for a Comedy Show being held on November 10, 2017 from 7:00pm to 11:00pm at Memorial Hall. *Voted 4/0*

On a motion by Anthony Provenzano Jr and seconded by John Mahoney, the Board approved Early Sunday Sales (10:00am) for **Sour Grapes d/b/a Mallebar Brasserie**. *Voted 4/0*

On a motion by Anthony Provenzano Jr and seconded by John Mahoney, the Board approved a New Class II Auto Dealer License for **Cedarville Motors, Inc**. *Voted 4/0*

On a motion by John Mahoney and seconded by Shelagh Joyce, the Board approved a One Day Wine and Malt License for **South Shore Community Action Council** for their 3rd Annual Pumpkin Run being held on October 21, 2017 from 10:20am to 1:00pm at Mayflower Brewing Company in their outside area at 12 Resnik Road. *Voted 3/0*
Anthony Provenzano Jr Recused himself

On a motion by John Mahoney and seconded by Shelagh Joyce, the Board approved an Amplified Music Permit for **South Shore Community Action Council** for their 3rd Annual Pumpkin Run being held on October 21, 2017 from 9:30am to 11:30am at Mayflower Brewing Company in their outside area at 12 Resnik Road. *Voted 3/0*
Anthony Provenzano Jr Recused himself

ADMINISTRATIVE NOTES

On a motion by Anthony Provenzano Jr and seconded by Shelagh Joyce, the Board appointed Mary Johannesen to the Distinguished Visitors Committee as the Chamber of Commerce Designee for a term beginning immediately and terminating on June 30, 2020. *Voted 4/0*

On a motion by Anthony Provenzano Jr and seconded by Shelagh Joyce, the Board withdrew its motion of a 75 foot building height limit made on September 19, 2017 under Article 37 of the 2017 Fall Town Meeting and agreed to recommend the same as the Finance Committee as long as it was 60 feet or more. *Voted 4/0*

On a motion by Anthony Provenzano Jr and seconded by Shelagh Joyce, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Orders to enact New Parking Regulations on Russell Street and South Russell Street. *Voted 4/0*

On a motion by John Mahoney and seconded by Anthony Provenzano Jr, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Orders to enact New Parking Regulations on School Street. *Voted 4/0*

On a motion by Anthony Provenzano Jr and seconded by John Mahoney, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Orders to establish Stop Signs on Russell Street, School Street and Sever Street. *Voted 4/0*

On a motion by Shelagh Joyce and seconded by Anthony Provenzano Jr, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Orders to further define No Parking Zones. *Voted 4/0*

On a motion by Shelagh Joyce and seconded by John Mahoney, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Order to clarify regulations related to the Blocking of Driveways. *Voted 4/0*

On a motion by John Mahoney and seconded by Anthony Provenzano Jr, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Orders to provide the Selectmen with the ability to adjust the maximum parking rates on Streets and Lots. *Voted 4/0*

On a motion by John Mahoney and seconded by Shelagh Joyce, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Orders to enact New Parking Regulations on Russell Street and South Russell Street outside of Town Hall Hours. *Voted 4/0*

On a motion by John Mahoney and seconded by Shelagh Joyce, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Orders to enact New Parking Regulations on Russell Street and South Russell Street during Town Hall Hours. *Voted 4/0*

On a motion by Shelagh Joyce and seconded by John Mahoney, the Board voted to amend the 1954 Town of Plymouth Traffic Rules and Orders to enact Metered Parking on School Street. *Voted 4/0*

On a motion by Anthony Provenzano Jr and seconded by John Mahoney, the Board voted to adopt the New Town Hall Facility/Office Workspace Policy. *Voted 4/0*

9:40PM - COMMITTEE LIAISON / DESIGNEE UPDATES

Selectman Mahoney said that he was excited about the Emera site visit and that he would not be able to attend the session after but was looking forward to the visit.

9:41PM - OLD BUSINESS / LETTERS / NEW BUSINESS

Chairman Tavares asked the Town Manager to go over the schedule for the move into the New Town Hall. Melissa Arrighi said that 11 Lincoln Street would be closed to the public on Friday, October 27, 2017 and Monday, October 30, 2017 and that 26 Court Street will open to the public on Tuesday, October 31, 2017.

Chairman Tavares also reminded everyone of the New Town Hall Ribbon Cutting Ceremony and Community Walk being held on November 12, 2017.

Lastly, Chairman Tavares asked Selectman Mahoney to bring the request for the letter to Mary Sutter to his colleagues on the Decommissioning Advisory Panel.

9:43PM - ADJOURNMENT

On a motion by Anthony Provenzano Jr and seconded by John Mahoney, the Board voted to adjourn the Open Session at 9:43pm. *Voted 4/0*
By Roll Call: Tavares-Yes, Provenzano-Yes, Mahoney-Yes, Joyce-Yes, Cavacco-Absent

Recorded by: Christopher Badot
Administrative Assistant, Board of Selectmen